

From: [Mahavir Patel](#)
To: [Brandon McWherter](#); [Chuck Howarth](#); [Hank](#)
Subject: Fwd: BMM1071 - Days Inn Bad Faith Demand
Date: Friday, September 7, 2018 5:19:07 PM

I received this from Travelers..

----- Forwarded message -----

From: Sutherland, Paul J <PJSUTHER@travelers.com>
Date: Fri, Sep 7, 2018 at 6:15 PM
Subject: BMM1071 - Days Inn Bad Faith Demand
To: Mahavir Patel <mahavirpatel@gmail.com>;

Dear Mr. Mahavir Patel,

We are responding to your attached email dated September 3, 2018.

Please note that the loss adjustment for the smoke damage claim was based on the Xactimate estimate, which represented the agreed scope of damages between Travelers (The Travelers Indemnity Company of America) and prior Public Adjuster Chris Cowan of First Call Claims. The Xactimate estimate included a scope of repairs, which included the professional cleaning and painting of certain portions of the motel. Our subsequent inspection of the motel building confirmed the professional cleaning and painting, which were detailed within the Xactimate estimate, have not been performed. Additionally, Travelers has not received any invoice, which would document those cleaning and painting repairs were completed. C2 Inspection also confirmed the motel continues to rent all of their motel rooms to guests.

More recently, you retained representation of your claim through Public Adjuster Chuck Howarth of the Howarth Group. Before presenting any damage amounts to Travelers, Mr. Howarth informed Travelers that he intended to represent your interests as your appraiser. I explained to Mr. Howarth that it was unclear to Travelers what damage amounts Mr. Howarth was disputing.

At a later date, Mr. Howarth submitted a Xactimate estimate from FBS (Forensic Building Science, Inc.). The estimate was accompanied by a report completed by IH (Industrial Hygienist) Neil Carlson of N.G. Carlson Analytical, Inc. Although Mr. Carlson did not inspect the building, he completed his IH report based on questionable test samples obtained by General Contractor FBS. u

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In our effort to validate the additional damages reported, we coordinated an on-site inspection

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of the motel. Accompanied by IH Sherman Woodson of S&ME, Inc. along with Construction Consultant Wesley Bolick of DND Construction Services, we inspected the motel. Although we scheduled our inspection through Mr. Howarth, neither Mr. Howarth nor his selected experts elected to join us on-site during the inspection process.

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Mr. Woodson completed his review of IH Neil Carlson's report and inspected the motel for smoke and smoke odor. Mr. Woodson's report was previously provided to you. Contrary to your allegation that Travelers would not allow Mr. Woodson to obtain samples from the motel – the decision to obtain or not obtain samples was made solely at the discretion of Mr. Woodson.

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Please note the appraisal process is intended to address differences in the valuation of property damages. Appraisal is not appropriate to determine the existence of damage or resolve questions of coverage or causation. As explained in our prior letter, dated August 22, 2018, your request for appraisal is respectfully denied.

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Regards,

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Paul Sutherland

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Paul J. Sutherland, CPCU, CHFC

General Adjuster | Business Property Insurance | Major Case Unit

The Travelers Companies

One Tower Square MS06-A

Hartford CT 06183

C: (443) 610-2022 F: (877) 864-5599

pjsuther@travelers.com



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If further assistance is required, please contact Barry Morihlatko @ bmorihla@travelers.com

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From: Mahavir Patel [<mailto:mahavirpatel@gmail.com>]

Sent: Monday, September 03, 2018 10:45 AM

To: Sutherland, Paul J <PJSUTHER@travelers.com>

Subject: BMM1071 - Days Inn Bad Faith Demand

The Travelers Indemnity Company of America

Attn: Paul J. Sutherland

PJSUTHER@travelers.com

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Re: Claim No. BMM1071

Date of Loss: November 28, 2016

Loss Location: Days Inn

324 Hemlock St.,
Gatlinburg, TN

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Dear Mr. Sutherland,

We are in receipt of your letter of August 22, 2018 in response to our Appraisal demand and further claim submission, and are disturbed by Travelers' decision to disallow us our right to Appraisal in the policy. Since the Days Inn was thoroughly surface cleaned as provided for in your initial settlement scope, we have experienced numerous complaints of smoke odor that has impacted our business and we continue to struggle with the need for excessive cleaning and deodorization costs. It is rather obvious that the scope allowed by Travelers (a simple cleaning) was not sufficient to restore the property to pre-loss condition.

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Because of the deficiencies in Travelers' scope, we employed The Howarth Group to appraise the damage and to determine if any additional repairs are warranted as a result of the wildfire soot, smoke, char and extensive particulate residue that inundated our building during the Gatlinburg fire that included hurricane force winds for extensive periods of time. The Howarth Group commissioned Forensic Building Science, Inc. (FBS) to complete tests and sampling to obtain lab

results that could establish where the soot/char and particulate was still present and causing the odor problems. According to the FBS report, it took 18 samples at various locations throughout the building and in 20 of the 20 test locations the positive presence of soot and/or char was found.

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Based on our August 22 letter, it appears that Travelers' response is simply to ignore the FBS test results, deny us our right to appraisal in the policy, and tell us to simply live with the problem and go away. Travelers did bring an IH to the site but would not allow him to take any samples of his own for some reason. He was only allowed to use his nose and eyes to test for the presence of soot/char and particulate on already cleaned surfaces, which is not proper and certainly not in good faith.

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This will serve as notice of our intent to sue for bad faith if you do not allow my full claim to move forward through the appraisal process and otherwise honor the insurance policy which Travelers issued to us. No one can reasonably dispute that we have insurance coverage for soot deposits and FBS' tests have confirmed the presence of soot in places for which you have not paid to clean or properly repair. I am perfectly willing to just let the appraisal process run its course so that we can put an end to this, but if you are unwilling to do that, then we will pursue all options available under the law, including bad faith remedies. This letter is intended to be a formal demand for payment and for full compliance with the terms of the policy, including its appraisal clause. This demand is being made to afford Travelers an opportunity to reconsider its position, to give notice of our intent to assert a cause of action for bad faith if the claim and appraisal demand are not honored, and that we will seek statutory damages for bad faith if Travelers refuses to honor its obligations. Please respond accordingly.

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Best,

Mahavir Patel

865.366.181

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Best,

[Mahavir Patel](#)
[865.356.6181](#)